THE HON'BLE SRI JUSTICE C.V.RAMULU

W.P.No.19315 of 1998

Dated:21.06.2007

Between
B.Sudhakar

.....Petitioner

and

1. The Managing Director,
APSRTC, Musheerabad, Hyderabad
And others.

…Respondents

THE HON'BLE SRI JUSTICE C.V.RAMULU

W.P.No.19315 of 1998

ORDER:

This writ petition is filed seeking to declare the action of the 3rd respondent in retiring the petitioner from service on medical grounds by an order dated 15.5.1998 (which was served on the petitioner on 23.6.1998) as arbitrary, illegal and violative of Articles 14 and 16 of the Constitution of India and consequently to direct the respondents to continue the petitioner in service and reinstate him with full back wages and other consequential benefits.

It appears that the petitioner joined the service of the respondent-Andhra Pradesh State Road Transport Corporation in the month of December, 1979 as a conductor. He was removed from service in the year 1982. However, in pursuance of the orders passed in

W.P.No.28184 of 1997, dated 11.11.1997, he was reinstated into service on 20.4.1998 and thus he reported for duty on 25.4.1998. Thereafter, he was sent for medical check up on 12.5.1998. The medical officer issued certificate dated 12.5.1998 declaring him unfit to hold the post of Conductor. On the basis of the said certificate the impugned order dated 15.5.98 was issued. Aggrieved by the same, the present writ petition is filed.

It is the case of the petitioner that when he joined in the month of December, 1978 as Conductor, dislocation to the right hand shoulder was there and the same never came in the way of discharging his duties properly. In fact he served for more than three years between 1979 and 1982 and there was no objection from any authority or complaint that he was not able to perform his duties properly. When he was sought to be reinstated in view of the orders passed by this Court in Writ petition No.28184 of 1997, he was sent for medical examination on 12.5.1998 and was declared medically unfit to hold the post of Conductor. After reinstatement on 26.4.1998 he

worked for more than 20 days and there was no complaint whatsoever. According to the petitioner, the Civil Surgeon Orthopedic, Gandhi Medical College, Hyderabad, certified on 6.6.98 to the effect that he is fit to work as Conductor in spite of dislocation of his right shoulder and it does not come in the way of performing his duties.

Be that as it may, while admitting the writ petition, interim suspension of the impugned order was granted and the petitioner is continuing as Conductor till date and performing his duties without any complaint from any corner. This itself shows that the petitioner is capable of performing his duties as Conductor.

The petitioner asserted that a small dislocation was there even at the time of his initial recruitment as Conductor in the year 1979 and the said dislocation never came in his way of performing duties.

No counter is filed denying the assertions and allegations made by the petitioner.

In view of the fact that the petitioner is

continuing in service as per the interim orders passed by this Court, during the pendency of the writ petition, and that he is at the fag end of his service and attained the age of 55 years, the impugned order is liable to be set aside.

Writ petition is allowed setting aside the impugned order dated 15.05.1998. No costs.

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21-06-2007

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